

## VETERANS BENEFITS ACT OF 2001

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JULY 24, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. SMITH of New Jersey, from the Committee on Veterans' Affairs, submitted the following

### R E P O R T

[To accompany H.R. 2540]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2540) to amend title 38, United States Code, to make various improvements to veterans benefits programs under laws administered by the Secretary of Veterans Affairs, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 5, line 20, strike “section 2” and insert “section 101”.

Strike section 403 (page 14, line 7, through page 15, line 24) and insert the following (and conform the table of contents in section 1(b) accordingly):

**SEC. 403. DEPARTMENT OF VETERANS AFFAIRS HEALTH SERVICES IMPROVEMENT FUND MADE SUBJECT TO APPROPRIATIONS.**

(a) AMOUNTS TO BE SUBJECT TO APPROPRIATIONS.—Effective October 1, 2002, subsection (c) of section 1729B is amended by striking “Amounts in the fund are hereby made available,” and inserting “Subject to the provisions of appropriations Acts, amounts in the fund shall be available,”.

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended by striking paragraph (1) and redesignating

nating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

#### INTRODUCTION

The reported bill reflects the Committee's consideration of several bills introduced during the 107th Congress, to include H.R. 862, H.R. 1406, H.R. 1435, H.R. 1746, H.R. 2359, and H.R. 2361.

On July 10, 2001, the Subcommittee on Benefits held a hearing and considered the following bills: H.R. 862, to add Type 2 diabetes to the list of diseases presumed to be service connected for veterans exposed to certain herbicide agents; H.R. 1406, the Gulf War Undiagnosed Illness Act of 2001; H.R. 1435, the Veterans' Emergency Telephone Service Act of 2001; H.R. 1746, to establish a single "1-800" telephone number for veterans benefits counseling; H.R. 1929, the Native American Veterans Home Loan Act of 2001; H.R. 2359, to authorize the payment of National Service Life Insurance and United States Government Life Insurance proceeds to an alternate beneficiary when the first beneficiary cannot be identified, to improve and extend the Native American veteran housing loan pilot program, to simplify document requirements for VA home loans and to eliminate the requirement to provide the Secretary of Veterans Affairs a copy of a notice of appeal to the Court of Appeals for Veterans Claims; and H.R. 2361, the Veterans' Compensation Cost-of-Living Adjustment Act of 2001.

On July 12, 2001, the Subcommittee on Benefits met and unanimously ordered a draft bill incorporating provisions from H.R. 862, H.R. 1406, H.R. 1435, H.R. 1746, H.R. 2359, and H.R. 2361 reported favorably to the full Committee.

On July 18, 2001, the Chairman and Ranking Member, respectively, the Honorable Christopher H. Smith and the Honorable Lane Evans, and the Chairman and Ranking Member of the Subcommittee on Benefits, respectively, the Honorable Mike Simpson and the Honorable Silvestre Reyes, along with Mr. Stump, Mr. Filner, Mr. Bilirakis, Ms. Brown of Florida, Mr. Buyer, Mr. Rodriguez, Mr. Baker, Mr. Shows, Mr. Simmons, Mr. Udall of New Mexico, Mr. Brown of South Carolina, and Mrs. Capps introduced H.R. 2540.

On July 19, 2001, the full Committee met and ordered H.R. 2540 reported favorably, as amended, to the House by unanimous voice vote.

#### SUMMARY OF THE REPORTED BILL

H.R. 2540 would:

##### *Title I—Annual Cost-of-Living Adjustment in Compensation and DIC Rates*

1. Provide, effective December 1, 2001, a cost-of-living adjustment to the rates of disability compensation for veterans with service-connected disabilities and to the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans. As in the past, the percentage amount would be equal to the increase for benefits provided

under the Social Security Act, which is calculated based upon changes in the Consumer Price Index.

*Title II—Compensation Provisions*

1. Add Diabetes Mellitus (Type 2) to the list of diseases presumed to be service-connected in Vietnam veterans exposed to herbicide agents.
2. Expand, effective April 1, 2002, the definition of undiagnosed illnesses for Persian Gulf War veterans to include fibromyalgia, chronic fatigue syndrome, and chronic multi-symptom illness and any other illness that cannot be clearly defined; signs or symptoms that may be a manifestation of undiagnosed illness include fatigue, unexplained rashes or other dermatological signs or symptoms, headache, muscle pain, joint pain, neurologic signs or symptoms, neuropsychological signs or symptoms, signs or symptoms involving the respiratory system (upper or lower), sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, and/or menstrual disorders.
3. Authorize the Secretary of Veterans Affairs to protect the grant of service connection of a Persian Gulf War veteran who participates in a Department of Veterans Affairs (VA)-sponsored medical research project.

*Title III—Administration of U.S. Court of Appeals for Veterans Claims*

1. Allow the Court to impose registration fees on persons participating in Court-sponsored activities, including judicial conferences.
2. Provide the Court with the authority to use practice and registration fees for the purposes of disciplinary matters, and for defraying the expenses of judicial conferences and other activities to support and foster bench-and-bar relationships, veterans law or the work of the Court.

*Title IV—Other Matters*

1. Authorize the Secretary to pay unclaimed National Service Life Insurance and United States Government Life Insurance proceeds to an alternate beneficiary when the first beneficiary cannot be located within three years of the death of the insured.
2. Extend to September 30, 2006, the copayment requirement for outpatient prescription medications.
3. Make the availability of funds from the Department of Veterans Affairs Health Services Improvement Fund subject to appropriations effective October 1, 2002.
4. Extend to December 31, 2005, VA's direct home loan program for Native American veterans living on trust lands, and eliminate the requirement for VA to have a separate memorandum of understanding (MOU) with tribal authorities if another federal agency has an MOU which substantially complies with VA's requirement.

5. Modify the requirement for loan assumption language in home loan documents.
6. Eliminate the requirement for veterans to furnish the Secretary of Veterans Affairs with a copy of the notice of appeal filed with the U.S. Court of Appeals for Veterans Claims.
7. Require the Secretary to establish a two-year nationwide pilot program to expand the available hours of VA's 1-800 toll-free information service, and to assess the extent to which a demand for such service exists.
8. Make technical and clerical amendments to title 38, United States Code.
9. Codify recurring provisions in annual Department of Veterans Affairs Appropriations Acts.

#### BACKGROUND AND DISCUSSION

##### TITLE I—ANNUAL COST-OF-LIVING ADJUSTMENT IN COMPENSATION AND DIC RATES

*Increase in rates of disability compensation and dependency and indemnity compensation.*—Section 101 of the bill would increase, effective December 1, 2001, the rates of compensation for service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for surviving spouses and children of veterans who die of service-connected causes, as well as the additional amounts for dependents and survivors, and clothing allowances for certain veterans. The percentage of increase would be the same as that automatically received by Social Security recipients.

The Committee annually reviews the service-connected disability compensation and DIC programs to ensure that the benefits provide reasonable and adequate compensation for disabled veterans and their families. Based on this review, the Congress acts annually to provide a cost-of-living adjustment (COLA) in compensation and DIC benefits. The Congress has provided annual increases in these rates for every fiscal year since 1976.

##### TITLE II—COMPENSATION PROVISIONS

*Presumption that Diabetes Mellitus (Type 2) is service-connected.*—Section 201 would codify VA's July 9, 2001, regulation providing benefits for Vietnam veterans with Type 2 diabetes. In adding Type 2 diabetes to the list of diseases presumed to be service-connected for veterans exposed to herbicides in Vietnam, veterans will receive priority VA health care and depending on the severity of their illness, disability compensation. VA estimates that about nine percent of the 2.3 million Vietnam veterans still alive have Type 2 diabetes. Approximately 16 percent of veterans currently receiving care in VA medical facilities have been diagnosed with diabetes.

The Agent Orange Act of 1991, Public Law 102-4, directed VA to seek to enter into an agreement with the National Academy of Sciences (NAS) to review, summarize and evaluate the scientific evidence concerning the association between exposure to herbicides and each disease suspected to be associated with such exposure. NAS conducted comprehensive reviews and evaluations of available literature. NAS published its initial report in 1993, with updates

published approximately every two years. In November 2000, the NAS' Institute of Medicine found a "limited/suggestive" association between adult onset, or Type 2, diabetes and exposure to Agent Orange and other herbicides used in Vietnam. The Committee believes the presumption established in regulation should be made permanent by statute.

*Inclusion of illnesses that cannot be clearly defined in presumption of service connection for Gulf War veterans.*—Section 202 expands the definition of "undiagnosed illness" for Persian Gulf War veterans to include fibromyalgia, chronic fatigue syndrome, and chronic multisymptom illness, as well as any other illness that cannot be clearly defined.

Public Law 103-446 gave the Secretary the authority to compensate a Persian Gulf War veteran who suffers from disabilities that cannot be diagnosed or clearly defined, when other causes cannot be identified. In interpreting this law, VA issued General Counsel Opinion 8-98 holding that only disabilities that cannot be attributed to "any known clinical diagnosis" could be compensated. Many Gulf War veterans, however, report disabilities related to poorly understood multisymptom disabilities that one physician may classify as "undiagnosed", and that another physician may diagnose as fibromyalgia or chronic fatigue syndrome. VA data indicates that approximately 2,000 Gulf War veterans diagnosed with chronic fatigue syndrome, 1,000 diagnosed with irritable bowel syndrome and 400 diagnosed with fibromyalgia have been denied service-connected compensation benefits for undiagnosed conditions.

This provision would also apply to disabilities resulting from a chronic multisymptom illness, such as those described by Fukada et al in "*Chronic Multisymptom Illness Affecting Air Force Veterans of the Gulf War*", JAMA 1998; 280:981-988, and Reid et al in "*Multiple Chemical Sensitivity and Chronic Fatigue Syndrome in British Gulf War Veterans*", American Journal of Epidemiology 2001; 153:604-609. The Committee notes that chronic multisymptom illness may include symptoms attributed by some researchers to "multiple chemical sensitivity." While the Committee recognizes there is not a generally accepted medical definition for multiple chemical sensitivity, the Committee bill explicitly includes such signs and symptoms.

This section would allow a more consistent interpretation of "undiagnosed illness" in keeping with Congressional intent, and would take effect for benefits payable on April 1, 2002. The bill also lists a number of symptoms that have been associated with undiagnosed or poorly defined illnesses in Gulf War veterans, to include fatigue, unexplained rashes or other dermatological signs or symptoms, headache, muscle pain, joint pain, neurologic signs or symptoms, neuropsychological signs or symptoms, signs or symptoms involving the respiratory system (upper or lower), sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, and/or menstrual disorders.

The Committee directs the Secretary to submit a report on October 1, 2002, on the Department's implementation of this section of the bill. The report would include the number of claims filed pertaining to this section, disposition of such claims, and other appropriate data.

Current law provides that both diagnosed and undiagnosed disabilities be evaluated under the relevant medical criteria appropriate to each. This bill would not change that requirement.

*Preservation of service connection for undiagnosed illnesses to provide for participation in research projects by Gulf War veterans.*—Section 203 would authorize the Secretary to protect the grant of service connection for a Persian Gulf War veteran who participates in a VA-sponsored medical research project. In the case of a Gulf War veteran being compensated for an undiagnosed illness, VA has taken the position that current law prevents them from acting to protect the individual's service-connected grant if, as a result of participating in a medical research study, the condition is diagnosed. Medical research studies are designed to increase knowledge of human disease and appropriate treatment. They often provide no direct benefit to individual research subjects, but serve a broader humanitarian goal.

The Committee intends that this section would give the Secretary the authority to protect the service-connected character of benefits received by veterans participating in such studies in order to broaden participation by veterans in medical research studies of rare or ill-defined conditions, such as Amyotrophic Lateral Sclerosis (ALS or Lou Gehrig's Disease). The Committee intends by preserving the service-connected character of the veteran's disabilities, that in the event of their death from such illnesses, survivors would qualify for survivor's benefits.

#### TITLE III—ADMINISTRATION OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

*Registration fees.*—Section 301 would amend subsection 7285(b) of title 38, United States Code, so that registration fees (currently a one-time fee of \$30) paid to the Court of Appeals for Veterans Claims by those admitted to practice before it may be used in connection with practitioner disciplinary proceedings and in support of certain bench-and-bar and veterans' law educational activities in addition to those now identified in that subsection. The Court currently collects these practice fees as well as registration fees paid by participants at its periodic Judicial Conferences, which are carried out under section 7286 of title 38, United States Code. Collection of the latter fees would be expressly authorized by the proposed amendment to subsection 7285(a) rather than by implication from section 7286 itself.

Also, the Committee has added, in consultation with the Court, authorization for the collection of registration fees for other Court-sponsored activities where appropriate. The types of activities for which fees collected under section 7285(a) are set forth in Chief Judge Kramer's May 24, 2001, letter to the Committee (see p. 20 for text). As is the case with the use of such nonappropriated-fund accounts in the Article III courts, the Committee intends that section 7285(a) fees would not be used for purposes for which appropriated funds are generally available, and that the support of bench-and-bar activities would generally follow the practice of the Article III courts in using such fees.

*Administrative authorities.*—Section 302 would add a new section 7287 to title 38, United States Code, to make available to the Court

generally the same management, administrative, and expenditure authorities that are available to Article III courts of the United States. The Court, established by the Congress under Article I of the Constitution to exercise judicial power, has unusual status as an independent tribunal that was not intended to be subject to the control of the President or the executive branch. Because of its status, the Court does not have available to it certain general authorities that would normally be available were it part of another administrative structure, such as are the U.S. Court of Federal Claims (under the Administrative Office of the U.S. Courts), and the U.S. Court of Appeals for the Armed Forces (under the Department of Defense). Pursuant to section 7282 of title 38, United States Code, the Court submits its budget directly to and receives its appropriations directly from Congress.

In the past, the Court has requested the enactment of various gap-filling statutory provisions, which are described in Chief Judge Kramer's May 24 letter. See 5 U.S.C. app. §§ 109(8), 109(10); 38 U.S.C. §§ 7253(g), 7264(c), 7281(i). The Court's special stand-alone nature is also reflected in the provisions of section 7281(a) through (g) of title 38, United States Code, which permit it to develop its own personnel and job classification system for its judicial and non-judicial personnel. Hence, unless there was a gap in its personnel-related authorities, the Court has indicated to the Committee that it would not use the proposed new section 7287 for purposes of personnel classification, appointment, and compensation. Rather than the Court's having to request legislation each time that it becomes aware of an administrative authority that it is lacking, the proposed new section 7287 would provide a generic authority for it to use Court-related management, administrative, and fund-expenditure authorities that are appropriate for its efficient operation. For example, Chief Judge Kramer pointed out in his May 24 letter two recently enacted authorities that the Court is lacking, but that seem to be generally available to the rest of the federal government to reduce the risk of personal liability for official actions. See U.S.C. Subchapter IV note (found preceding 5 U.S.C. § 5941); 28 U.S.C. § 613; 31 U.S.C. § 3529. Under the proposed new section 7287, the Court would have these types of authorities available to it, but not have available any provision of law that is inconsistent with any provision of chapter 72 of title 38. Moreover, the Court would have to exercise the new gap-filling provision in accordance with all limitations with respect to the underlying authorities themselves and do so subject, of course, to the availability of appropriations provided for its operation.

#### TITLE IV—OTHER MATTERS

*Payment of insurance proceeds to an alternate beneficiary when first beneficiary cannot be identified.*—Section 401 would grant the Secretary of Veterans Affairs the authority to authorize payment of National Service Life Insurance (NSLI) or United States Government Life Insurance (USGLI) proceeds to an alternate beneficiary when the proceeds have not been claimed by the first named beneficiary within three years following the death of the policyholder. Currently, VA is holding an estimated \$23 million in insurance proceeds involving about 4,000 claims because the first beneficiary has not come forward to file a claim. Under current law, there is

no time limitation for a first named beneficiary of a NSLI or USGLI policy to file a claim for proceeds. As a result, when the insured dies and the beneficiary does not file a claim, VA is required to hold the unclaimed funds indefinitely in order to honor any possible future claims by that beneficiary. While VA employs extensive efforts to locate and pay these individuals, there are cases where a beneficiary simply cannot be found.

Currently, VA is not permitted to pay the proceeds to an alternate beneficiary unless VA can determine that the first beneficiary predeceased the policyholder. The bill would provide that if no first named beneficiary had claimed the proceeds within three years of the veteran's death, benefits could be paid to a secondary beneficiary. If no beneficiary has filed a claim within five years of the veteran's death, benefits could be paid to such person as the Secretary determines is equitably entitled to the proceeds of the policy. As under current law, no benefits will be paid if the proceeds would escheat to a state.

*Extension of copayment requirement for outpatient prescription medications.*—Section 402 would amend section 1722A(c) of title 38, United States Code, to extend until September 30, 2006, the authority of the Secretary to require a copayment of \$2 for each 30-day supply of medication VA furnishes a veteran on an outpatient basis for the treatment of a nonservice connected disability or condition. The current authority expires on September 30, 2002.

*Department of Veterans Affairs Health Services Improvement Fund.*—Section 403 would amend section 1729B by making the availability of funds in the VA's Health Services Improvement Fund subject to the provisions of appropriations acts. This change to the Fund would be effective October 1, 2002, and would allow the Committee to meet the pay-as-you-go requirements of the Budget Act that apply to the bill.

*Native American veteran housing loan pilot program.*—Section 404 would extend to December 31, 2005, VA's direct home loan program for Native American veterans living on trust lands. The Native American veteran direct home loan program, which was enacted in October 1992, has enjoyed limited success. VA has made over 200 loans under this program to Native American veterans. The majority of these loans have been to Native Hawaiians.

The bill would also amend section 3762(a)(1) to permit VA to make home loans to members of a Native American tribe that has entered in a memorandum of understanding (MOU) with another federal agency if that MOU generally conforms to the requirements of VA program. Current law requires a tribe to enter into a separate MOU with VA before VA can make home loans to members of that tribe. Eliminating the requirement for a separate MOU between each tribe and VA should expand the number of Native American veterans eligible for VA financing. The changes made by section 404 would reduce the administrative burden on Indian housing authorities and bring more uniformity in federal loan program processing procedures.

*Modification of loan assumption notice requirement.*—Section 405 would modify the requirement in 3714(d) of title 38, United States Code, that all VA loans and security instruments contain on the



first page of each such document in letters two and one half times the size of regular type face used in the document a statement that the loan is not assumable without the approval of VA. The extremely strict loan assumption notice requirement in the current law has prevented VA from approving the use of uniform loan instruments now used in FHA, "Fannie Mae," and "Freddie Mac" transactions. The Committee bill would require that this notice appear conspicuously on at least one instrument (such as a VA rider) under guidelines established by VA in regulations. The Committee expects that the Secretary's regulations would provide for a type-face size to be used that would be sufficiently large and identifiable to provide notice similar to that provided by current law.

The Committee notes this amendment would implement recommendations made by the executive branch's One-Stop Mortgage Initiative, which was an effort to develop a more consistent approach to delivering home ownership opportunities under various federal programs.

*Elimination of requirement for providing a copy of notice of appeal to the Secretary.*—Section 406 would repeal the requirement in section 7266(b) of title 38, United States Code, that requires an individual appealing a decision of the Board of Veterans' Appeals to furnish the Secretary of Veterans Affairs with a copy of his or her notice of appeal to the U.S. Court of Appeals for Veterans Claims. In a number of instances, appellants have mailed their notices of appeal to VA, but not to the Court, thinking that they have complied with the statute. Some appeals have been dismissed because the Court did not receive the notices of appeal within the required 120 days. Rules for the U.S. Court of Appeals for Veterans Claims currently provide for notification to the Secretary when an appeal is docketed on the Court's calendar. Removal of this notice requirement would not impair VA's ability to receive notice of the filing of an appeal and to respond to those that are properly filed with the Court.

*Pilot program for expansion of toll-free telephone access to veterans service representatives.*—Section 407 would require the Secretary to establish a two-year nationwide pilot program to test the benefit and cost effectiveness of expanding access to veterans service representatives of VA through a toll-free telephone number. Under the pilot program, the Secretary would be required to expand the available hours of such access to veterans service representatives to not less than 12 hours on each regular business day across U.S. time zones and not less than six hours on Saturday.

The Committee views the pilot as a potential opportunity to build on current VA toll-free information services provided by veterans service representatives at VA regional offices through expanded hours and types of information. Currently, VA's toll-free number provides 24 hours a day, seven days a week, access to its automated telephone response system and access to veterans service representatives during most of the business day. Callers may use the automated system to route inquiries concerning education, home loan and health care eligibility matters to offices that can provide the technical information related to those programs. The Committee intends that the pilot program would not affect calls

normally routed to or handled by the Education, Loan Guaranty, or Health Eligibility Center toll-free lines.

Currently, callers on the automated line may also be connected to a VA employee during certain portions of the business day. When a caller indicates a desire to speak to a VA employee, the call is automatically routed to the VA Regional Office with jurisdiction over the area code from which the call is made. Although VA tracks blocked and abandoned calls on this system, data is not available concerning the amount of time spent on hold. Testimony before the Committee indicated a wide variation in waiting times to speak to a veterans service representative from a few minutes to more than one-half hour.

VA's system-wide blocked and abandoned call data show that VA has made demonstrable improvements in phone services. The Committee applauds these improvements. The Committee notes the following data from "Number of 800-827-1000 Calls Answered by ROs," produced by the Veterans Benefits Administration and Sprint, Inc.:

- In FY 1998 on a volume of 24 million calls, the blocked call rate was 52 percent and the abandoned call rate was 12.9 percent;
- In FY 2001 on a volume of 6.7 million calls to date, the blocked call rate is 2.9 percent and the abandoned call rate is 4.5 percent.

The Committee notes the hearing testimony on July 10, 2001, of Mr. Joseph A. Violante, Disabled American Veterans (DAV) National Legislative Director, on DAV's nationwide survey of VA's national toll-free hotline:

The results of our survey were surprising and somewhat unexpected. In all but a few cases, our NSOs [National Service Organizations] were able to access the help line on the first call. For the most part, services were rendered in less than five minutes—this was total call time. Overwhelmingly, we were informed that the counselors were polite and courteous. In some cases, the counselors offered to provide any additional assistance that might be needed on other matters.

The pilot program would begin six months after enactment and would provide information about veterans' benefits provided by federal departments and agencies and state governments. Not later than 120 days after the end of the pilot program, the Secretary would be required to provide the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pilot program. The report would contain the Secretary's assessment of benefits and cost effectiveness of continuing or making permanent the pilot program, including an assessment of the extent to which there is a demand for access to veterans service representatives during the period of expanded access.

To the maximum extent feasible, in addition to collecting blocked and abandoned call rates in the pilot program, the Committee desires VA to collect data on the number and percentage of calls placed on hold and the length of time on hold, and the number and percentage of calls answered by way of Interactive Voice Recorder.

*Codification of recurring provisions in annual Department of Veterans Affairs Appropriations Acts.*—Section 409 would codify those provisions that are recurring in annual Department of Veterans Affairs Appropriations Acts. Each year the Congress appropriates funds to the Department of Veterans Affairs as part of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act (VA-HUD appropriations bill). Although the amount of the appropriations varies from year to year, the purposes for which appropriations are made are generally fixed, and change little if at all from year to year. Because the style of appropriations language discourages normal punctuation or sentence structure, some of the “sentences” making appropriations exceed a page in length. In order to make language appropriating funds to VA more comprehensible and easier for the average person to read, the reported bill includes provisions that codify in title 38, United States Code, the authorities for which the Department may spend appropriated funds. This language has been enacted in VA-HUD appropriations bill for many years, and this codification would eliminate the need to repeat this language in future appropriations bills. It does not have any substantive effect on the purposes for which funds have been appropriated in the past, and is intended to consolidate in one section of title 38, United States Code, many of the non-title 38 provisions for which VA may spend appropriated funds.

#### SECTION-BY-SECTION ANALYSIS

Section 1 would provide that this Act may be cited as the “Veterans Benefits Act of 2001”.

Section 2 states that except as otherwise expressly provided, all references are to title 38, United States Code.

Section 101(a) would authorize the Secretary of Veterans Affairs to increase, effective December 1, 2001, the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation.

Section 101(b) would specify the programs to receive increased dollar amounts: compensation, additional compensation for dependents, clothing allowance, new DIC rates, old DIC rates, additional DIC for surviving spouses with minor children, additional DIC for disability, and DIC for dependent children.

Section 101(c)(1) would increase the dollar amounts for those specified in subsection (b) based on the amount in effect on November 30, 2001.

Section 101(c)(2) would specify that each amount shall be increased by the same percentage by which benefits are increased under title II of the Social Security Act (42 U.S.C. 401 et seq.).

Section 101(c)(3) would round down to the next lower dollar amount all compensation and DIC benefits, when the amount is not a whole dollar amount.

Section 101(d) would provide a special rule authorizing the Secretary of Veterans Affairs to adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of sec-

tion 10 of Public Law 85–857, who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Section 102 would require the Secretary of Veterans Affairs to publish in the Federal Register the amounts specified in subsection (b), as increased pursuant to that section.

Section 201 would amend section 1116(a)(2). It would add a new subparagraph (H) authorizing the Secretary to include Diabetes Mellitus (Type 2) to the list of diseases presumed to be service connected for Vietnam veterans exposed to herbicides.

Section 202 (a) would amend subsection (a) of section 1117 by adding fibromyalgia, chronic fatigue syndrome, chronic multisymptom illness, or any other illness that cannot be clearly defined (or combination of illnesses that cannot be clearly defined) as illnesses presumed to be service connected in Persian Gulf War veterans.

Section 202 (b) would add a new subsection (g) of section 1117 by listing signs and symptoms that may be a manifestation of an undiagnosed illness, including fatigue, unexplained rashes or other dermatological signs or symptoms, headache, muscle pain, joint pain, neurologic signs or symptoms, neuropsychological signs or symptoms, signs or symptoms involving the respiratory system (upper or lower), sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, menstrual disorders.

Section 202(c) provides an effective date of April 1, 2002 for the provisions contained in this section.

Section 203(a) would amend section 1117 by adding a new subsection (h) authorizing the Secretary to preserve a grant of service connection for an undiagnosed illness when a Persian Gulf veteran in receipt of compensation participates in a medical research project sponsored by the Department. This section does not apply in a case in which the original award for compensation or service connection was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The Secretary would be required to publish in the Federal Register a notice of each determination made by the Secretary under this section with respect to a medical research project.

Section 203(b) would provide that this section would be effective with respect to any medical research project of the Department of Veterans Affairs whether commenced before, on, or after the date of enactment of this Act.

Section 301(a) would amend subsection (a) of section 7285 by authorizing the U.S. Court of Appeals for Veterans Claims to impose registration fees on persons participating in a judicial conference convened pursuant to section 7286 of this title or in any other court-sponsored activity.

Section 301(b) would amend subsection (b) of section 7285 to specifically authorize the U.S. Court of Appeals for Veterans Claims to use fees for Court-sponsored activities for conducting investigations and proceedings, including employing independent counsel, to pursue disciplinary matters; to defray the expenses of judicial conferences convened pursuant to section 7286 of this title; and for other activities and programs that are designed to support and fos-

ter bench and bar communication and relationships or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court.

Section 302(a) would amend subchapter III of chapter 72 by specifically authorizing the Court of Appeals for Veterans Claims to exercise, for purposes of management, administration, and expenditure of funds, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision) applicable to a court of the United States as defined in section 451 of title 28, United States Code, except to the extent that such provision of law is inconsistent with a provision of chapter 72.

Section 401(a) would amend section 1917 by authorizing the payment of insurance proceeds under the National Service Life Insurance program to another beneficiary designated by the insured, if the first beneficiary otherwise entitled to payment does not make a claim within three years after the death of the insured. If within five years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary, and the Secretary has not received any notice in writing that any such claim will be made, payment of the insurance proceeds would be authorized (notwithstanding any other provision of law) to be made to such person as may in the judgment of the Secretary be equitably entitled to the proceeds of the policy.

Section 401(b) would amend section 1951 by authorizing the payment of insurance proceeds under the United States Government Life Insurance program to another beneficiary designated by the insured, if the first beneficiary otherwise entitled to payment does not make a claim within three years after the death of the insured. If within five years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary, and the Secretary has not received any notice in writing that any such claim will be made, payment of the insurance proceeds would be authorized (notwithstanding any other provision of law) to be made to such person as may in the judgment of the Secretary be equitably entitled to the proceeds of the policy.

Section 401(c) would provide that in the case of a person insured under subchapter I or II of chapter 19 who dies before the date of enactment of this Act, would for purposes of the applicable subsection be treated as being the three-year and five-year periods, respectively, beginning on the date of enactment of this Act.

Section 402 would amend section 1722A(c) by extending the copayment requirement for outpatient prescription medications from September 30, 2002 to September 30, 2006.

Section 403(a) would amend section 1729B that establishes the Department of Veterans Affairs Health Services Improvement Fund and by making availability of its funds subject to the provisions of appropriations acts, effective October 1, 2002.

Section 404(a) would amend section 3761(c) by extending the Native American Veteran Housing Loan pilot program from December 31, 2001 to December 31, 2005.

Section 404(b) would permit VA to make a direct housing loan to a Native American veteran of a tribe that has entered into a memorandum of understanding (MOU) with any department or

agency of the United States that the Secretary determines substantially complies with the requirements of section 3762(b).

Section 405 would amend section 3714(d) to require that for any loan guaranteed, insured, or made under chapter 37, the Secretary shall provide, by regulation, that at least one instrument evidencing either the loan or the mortgage or deed of trust therefore, would be required to conspicuously contain, in such form as specified by the Secretary, a notice in substantially the following form: "This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent."

Section 406(a) would repeal subsection (b) of section 7266, by eliminating the requirement for an appellant to furnish the Secretary with a copy of notice of appeal.

Section 407(a) would require the Secretary of Veterans Affairs to conduct a pilot program to test the benefits and cost effectiveness of expanding access to veterans service representatives of the Department of Veterans Affairs through a toll-free telephone number. Under the pilot program, the Secretary would be required to expand the available hours of such access to veterans service representatives to not less than 12 hours on each regular business day and not less than six hours on Saturday.

Section 407(b) would require that the Secretary ensure that veterans service representatives have available to them information about veterans benefits provided by all other departments and agencies of the United States and state governments, in addition to the laws administered by the Secretary.

Section 407(c) would require the Secretary to establish the pilot program in consultation with the heads of other departments and agencies of the United States that provide veterans benefits.

Section 407(d) would define 'veterans benefits' for purposes of this section as benefits provided to a person based upon the person's own service, or the service of someone else, in the Armed Forces.

Section 407(e)(1) and (2) would provide that the pilot program begin not later than six months after date of enactment of this Act and end at the end of the two-year period beginning on the date on which the program begins.

Section 407(f) would require the Secretary to submit to the Committees on Veterans' Affairs of the Senate and House a report on the pilot program not later than 120 days after the end of the pilot. The report would provide the Secretary's assessment of the benefits and cost effectiveness of continuing or making permanent the pilot program, including an assessment of the extent to which there is a demand for access to veterans service representatives during the period of expanded access to such counselors.

Section 408 would make certain technical and clerical amendments to title 38.

Section 409 would codify certain recurring provisions in annual Department of Veterans Affairs Appropriations Acts.

#### PERFORMANCE GOALS AND OBJECTIVES

The reported bill would authorize veteran benefits enhancements and program improvements under laws administered by the Sec-

retary of Veterans Affairs. It also would authorize additional administrative authorities for the U.S. Court of Appeals for Veterans Claims. All veterans programs and activities affected by the reported bill are currently authorized. Their performance goals and objectives are established in annual performance plans and are subject to the Committee's regular oversight.

STATEMENTS OF THE VIEWS OF THE ADMINISTRATION AND THE  
UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

STATEMENT OF JOSEPH THOMPSON, UNDER SECRETARY FOR BENEFITS,  
DEPARTMENT OF VETERANS AFFAIRS, BEFORE THE SUBCOMMITTEE ON  
BENEFITS, HOUSE COMMITTEE ON VETERANS' AFFAIRS, JULY 10, 2001

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify today on several legislative items of great interest to veterans. Accompanying me today is Dr. John Feussner, Chief Research and Development Officer.

*H.R. 862*

The first measure I will discuss, Mr. Chairman, is H.R. 862. This bill would amend section 1116 of title 38, United States Code, by adding diabetes mellitus (Type 2) to the list of diseases presumed to be service connected in veterans exposed to certain herbicide agents. In view of final rules recently issued by VA concerning this subject, we believe this bill is not necessary.

Section 1116(b)(1) of title 38, United States Code, directs VA to establish presumptions of service connection for diseases shown to have a "positive association" with exposure to herbicide agents. On May 8, 2001, VA published in the Federal Register a final rule which adds Type 2 diabetes to the regulatory list, contained in 38 C.F.R. § 3.309(e), of diseases VA presumes to be service connected in veterans exposed to certain herbicide agents in service. This final rule effectuates the purpose of H.R. 862.

Section 1116(a)(1)(B) of title 38, United States Code, expressly establishes a presumption of service connection for each disease that "the Secretary determines in regulations prescribed under this section warrants a presumption of service-connection by reason of having a positive association with exposure to an herbicide agent." Inasmuch as the statute already incorporates by reference the diseases identified in VA regulations issued pursuant to section 1116, and VA has included diabetes mellitus, Type 2 in those regulations, we believe it is unnecessary to amend section 1116 to specifically mention diabetes mellitus, Type 2.

Congress has not amended section 1116 to include specific reference to each disease for which VA has previously established a presumption of service connection by regulation. For example, in 1996, VA issued a final rule establishing presumptions of service connection for prostate cancer and acute and subacute peripheral neuropathy in veterans exposed to certain herbicide agents. We see no need for legislative action ratifying these regulatory determinations.

Because H.R. 862 would merely reiterate requirements of existing statute and regulation, its enactment would result in no additional costs to VA.

*H.R. 1406*

The "Gulf War Undiagnosed Illness Act of 2001," H.R. 1406, would amend section 1117 of title 38, United States Code, which governs compensation for certain Gulf War veterans. We cannot support the enactment of section 2 of this bill, but we support the enactment of section 3.

Section 2 of H.R. 1406 would amend section 1117 to include "fibromyalgia, chronic fatigue syndrome, a chronic multisymptom illness, or any other ill-defined illness (or combination of ill-defined illnesses)" among the illnesses for which a presumption of service connection may be established for resulting chronic disability suffered by Gulf War veterans. Currently, section 1117 provides that the Secretary may pay compensation to any Gulf War veteran suffering from a chronic disability resulting from an undiagnosed illness (or combination of undiagnosed illnesses) that became manifest during active service in the Southwest Asia theater of operations during the Gulf War or became manifest to a compensable degree within a presumptive period (currently ending on December 31, 2001) as determined by regulation.

With regard to fibromyalgia and chronic fatigue syndrome, under current law service connection may be established on a direct basis for disability resulting from

either of these conditions. Each is recognized as diagnosable under VA's schedule for rating disabilities. Accordingly, we cannot support the inclusion of either condition in section 1117. With regard to other "conditions" that would be added by section 2, the descriptions of those conditions ("chronic multisymptom illness" and "any other ill-defined illness") are very vague and would result in great uncertainty regarding proper implementation. The Department is pursuing multiple research initiatives intended to identify diseases or conditions that may be associated with service in the Gulf. The results of this research will provide a scientific foundation for decisions on possible presumptive service-connection of diseases or conditions found in veterans of the Persian Gulf War.

Section 3 of the bill would authorize the Secretary, with respect to medical research projects sponsored by VA, to render a determination that medical information derived directly or indirectly from the participation in such a project by a Gulf War veteran who is in receipt of disability compensation under either section 1117 or 1118 of title 38, United States Code, may not be used in adjudicating such veteran's entitlement to such compensation. Such determination would be based on a finding that it is necessary for the conduct of the project that Gulf War veterans participate without fear of loss of compensation. The Secretary would be required to publish in the Federal Register a notice of each determination made under this authority with respect to each medical research project concerned. This authority would be available for the Secretary's use with respect to any VA medical research project whether commenced before, on, or after the date of enactment of the bill.

Veterans who suffer from undiagnosed illnesses should not be discouraged from participation in significant research projects that may result in a better understanding of illnesses associated with Gulf War service or in beneficial treatment of their disabling conditions. In addition, if significant numbers of Gulf War veterans who suffer from undiagnosed illnesses refuse to participate in such research projects out of fear that their entitlement to compensation may be adversely affected, the results of such studies may be rendered unreliable. Accordingly, Mr. Chairman, we support this provision.

H.R. 1406 is subject to the PAYGO requirements of the Omnibus Budget Reconciliation Act of 1990, and, if enacted, it would increase direct spending. We estimate that enactment of H.R. 1406 would result in benefit costs of \$15.3 million in Fiscal Year 2002 and a total benefit cost of \$87.4 million for the five-year period from FY 2002 through FY 2006. In addition, we estimate that administrative costs associated with enactment of this provision would total \$819,000 during that five-year period. Because undiagnosed illnesses of Gulf War veterans are already subject to a presumption of service connection under 38 U.S.C. § 1117 and it is not clear whether any additional illness would be service connected as an "ill-defined illness," the estimates reflected above relate only to the addition of fibromyalgia and chronic fatigue syndrome as new presumptive conditions under that section.

#### *H.R. 1435 & H.R. 1746*

H.R. 1435 and H.R. 1746 address the same basic issue, Mr. Chairman, so I will discuss these two measures together. Both bills deal with VA having a centralized toll-free telephone number that enables veterans Nationwide to receive complete and accurate information regarding benefits for veterans from not only VA but also from a variety of federal and state agencies.

Although we fully support this goal, we are unable to support H.R. 1435 and believe we are already in substantial compliance with the implied mandate of H.R. 1746.

H.R. 1435 would authorize the Secretary to award a grant to a private, nonprofit entity to develop and operate a national, toll-free telephone hotline to provide information and assistance to veterans and their families. This hotline would provide general information about VA benefits, and also provide crisis intervention counseling, information regarding emergency shelter and food, substance-abuse rehabilitation, employment training and opportunities, and small business assistance programs.

H.R. 1746 would require VA to provide a single toll-free phone number to enable the public to have access to veterans benefits counselors. The Secretary must ensure that these counselors have information about veterans benefits provided by all federal and state agencies.

We would first note, Mr. Chairman, that the Veterans Benefits Administration has had a national toll-free number, 1-800-827-1000, since 1993. This number is listed in the blue pages of telephone books under the heading "benefits information." Veterans call this number every day and receive information not only about VBA benefits, but also benefits administered by the Veterans Health Administration and



the National Cemetery Administration as well as benefits offered by other federal and state agencies.

VBA's telecommunications concept is based on three customer service objectives:

- Accessibility (the call gets through);
- Responsiveness (get call to the right place); and
- Reliability (VA gives the correct answer).

Our goals for our telephone system include:

- Reduce blocked calls to 1 percent;
- Reduce abandoned calls to 2 percent;
- Reduce the volume of calls and misdirected calls; and
- Direct calls to program experts based on business rules.

While VA believes our efforts substantially comply with the intent of H.R. 1746, we recognize that there is more we can do. For this reason, we continue to monitor and modify our telephone service to ensure veterans receive the highest quality service from VA consistent with these goals and objectives. In May, the Secretary directed the Department to explore establishing a cost-effective centralized call center available on a 24/7 basis which would be able to respond to general inquiries about the full range of veterans benefits and health care services. That study is ongoing and will be completed shortly. VBA is also currently implementing initiatives, such as Virtual Information Center and Case Call Routing, that will improve telephone service and utilize our Veterans Service Representatives more efficiently. Case Call Routing will allow callers to call their case management team. Virtual Information Centers (VIC) allows us to adopt a Service Delivery Network (SDN) strategy to handle general calls.

We also developed the State Benefit Reference System in FY 2001. This system provides VA employees computer-based information about veterans benefits offered by State agencies. We are investigating the development of a similar system for VA and non-VA federal benefits for use by VA counselors and veterans self-service on the internet.

VA should have the flexibility to use the latest technologies in a way that will be of the greatest assistance to our veterans and other customers. Certain types of benefit issues may require a separate toll-free number to direct calls to subject-matter experts. In addition, the issue as to whether a private entity, as envisioned by H.R. 1435, rather than VA personnel should operate such a system requires further study.

We would be pleased to meet with your staff and discuss VA telecommunications concerns and initiatives.

#### *H.R. 2359*

VA supports the enactment of H.R. 2359, if the bill's PAYGO costs of \$15 million over five years can be accommodated within the budget limits agreed to by the President and the Congress.

Section 1 of H.R. 2359 would authorize the payment of unclaimed National Service Life Insurance (NSLI) and United States Government Life Insurance (USGLI) proceeds to an alternate beneficiary. VA supports the enactment of section 1 of this bill.

Under current law, there is no time limitation under which a named beneficiary of an NSLI or USGLI policy is required to file a claim for proceeds. Consequently, when the insured dies and the beneficiary does not file a claim for the proceeds, VA is required to hold the unclaimed funds indefinitely in order to honor any possible future claims by the beneficiary. VA holds the proceeds as a liability. While extensive efforts are made to locate and pay these individuals, there are cases where the beneficiary simply cannot be found. Under current law, we are not permitted to pay the proceeds to a contingent or alternate beneficiary unless we can determine that the principal beneficiary predeceased the policyholder. Consequently, payment of the proceeds to other beneficiaries is withheld.

A majority of the existing liabilities of unclaimed proceeds were established over ten years ago. As time passes, the likelihood of locating and paying the principal beneficiary becomes more remote. In fact, the older the liability becomes, the more unlikely it is that it will ever be paid even though other legitimate heirs of the insured have been located.

This bill would grant the Secretary authority to authorize payment of NSLI and USGLI proceeds to an alternate beneficiary when the proceeds have not been claimed by the named beneficiary within two years following the death of the policy-

holder or within two years of this bill's enactment, whichever is later. The principal beneficiary would have two years following the death of the insured to file a claim. Afterwards, a contingent beneficiary would then have two years to file a claim. Payment would be made as if the principal beneficiary had predeceased the insured. If there is no contingent beneficiary to receive the proceeds, payment would be made to those equitably entitled, as determined by the Secretary. As occurs under current law, no payment would be made if payment would escheat to a State. Such payment would be a bar to recovery of the proceeds by any other individual.

Section 1 of H.R. 2359 would apply retroactively as well as prospectively, and is similar to the time-limitation provisions of the Servicemembers' and Veterans' Group Life Insurance programs and the Federal Employees Group Life Insurance program.

Insofar as payment to beneficiaries is made from the insurance trust funds, there are no direct appropriated benefit costs associated with this section. The liabilities are already set aside and would eventually be paid, either as payment to beneficiaries that eventually claim the proceeds, or released from liability reserves and paid as dividends.

There are approximately 4,000 existing policies in which payment has not been made due to the fact that we cannot locate the primary beneficiary, despite extensive efforts. Over the years, the sum of moneys held has aggregated to approximately \$23 million. On a yearly basis, about 200 additional policies (with an average face value of \$9600, or approximately \$1.9 million annually) are placed into this liability because the law prohibits payment to a contingent beneficiary or to the veteran's heirs. It is estimated that approximately two-thirds of the 4,000 policies will eventually be paid as a result of this legislation. Additionally, in anticipation of the fact that about one-third of these policies will not be able to be paid, nearly \$7 million has already been released to surplus and available for dividend distribution.

This section is subject to the PAYGO requirements of the Omnibus Budget Reconciliation Act of 1990, and, if enacted, it would increase direct spending. The Administration estimates that its enactment would result in PAYGO costs of \$15 million during Fiscal Years 2002–2006 and a total of \$25 million during Fiscal Years 2002–2011.

Adjudication of these 4,000 policies would entail administrative costs of approximately \$154,000, representing two full-time employee equivalence (FTE) in claims processing and support. Approximately 94 percent of this cost would be reimbursed to the Veterans Benefits Administration's General Operating Expense (GOE) account from the surplus of the trust funds, leaving about \$9,000 in government costs (which assumes that about six percent of the policies are Service-Disabled Veterans Insurance, which has no surplus and for which appropriated funds are used to cover administrative costs).

Section 2 of H.R. 2359 would extend, by 4 years, the sunset for the VA's direct loan program for Native American veterans living on trust lands. VA strongly supports this program, and favors enactment of this provision.

The Native American veteran direct loan program, which was enacted in October 1992, has enjoyed limited success. VA has made over 200 loans under this program to Native American veterans. The majority of these loans have been to Native Hawaiians. This program is currently set to expire December 31, 2001. This provision extends the program until December 31, 2005.

VA recently participated in the Executive Branch's One-Stop Mortgage Initiative, which was an effort to develop a more consistent approach to delivering home ownership opportunities to Native Americans. VA is hopeful that this initiative will increase opportunities and remove barriers to participation in the VA loan program for Native American veterans living on trust lands. VA is also aware of efforts by the Federal National Mortgage Association to increase private-sector lender willingness to make loans on tribal lands.

VA believes a four-year extension of the Native American veteran direct loan program would give both the Executive Branch and the Congress an opportunity to see how various initiatives regarding Native American housing loans affect the ability of these veterans to obtain VA financing, and whether further program modifications are indicated.

H.R. 2359 would also make two changes to the current law.

First, the bill would permit VA to make loans to members of a Native American tribe that has entered into a memorandum of understanding (MOU) with another federal agency if that MOU contemplates loans made by VA and the MOU generally conforms to the requirements of the law governing the VA program. Current law requires a tribe to enter into an MOU with VA before we can make loans to members of that tribe.

The bill would also modify the current requirement that all VA loan and security instruments contain, on the first page of each such document, in letters two-and-

a-half times the size of the regular type face used in the document, a statement that the loan is not assumable without the approval of VA. H.R. 2359 would require that this notice appear conspicuously on at least one instrument (such as a VA rider) under guidelines established by VA in regulations.

Those two amendments would implement recommendations by the One-Stop Initiative. These changes would reduce the administrative burden on Indian housing authorities and bring more uniformity in federal loan program processing procedures. Eliminating the requirement for a separate MOU between each tribe and VA should expand the number of Native American veterans eligible for VA financing. The extremely strict loan assumption notice requirement in the current law has prevented VA from approving the use of uniform loan instruments now used in FHA, "Fannie Mae," and "Freddie Mac" transactions.

We recommend that section 2 of H.R. 2359 be further amended to repeal the requirement that VA outstation, on a part-time basis, Loan Guaranty specialists at tribal facilities if requested to do so by a tribe. We have consolidated loan processing and servicing operations from 46 regional offices to nine Regional Loan Centers, and do not have the resources to outstation loan personnel at various tribal locations. VA continues to make periodic outreach visits to all tribes, and provides training to tribal housing authorities. We believe that we can provide all necessary services to Native American veterans seeking VA housing loans without outstationing employees in remote tribal locations.

We estimate that enactment of section 2 of H.R. 2359 would not require any additional appropriation of loan subsidy. Public Law No. 102-389 appropriated \$4.5 million "to remain available until expended" to subsidize gross obligations for direct loans to Native American veterans of up to \$58.4 million. We estimate that sufficient funds would be available to cover projected Native American veteran loan volume until at least FY 2005. This section is subject to the PAYGO requirements of the Omnibus Budget Reconciliation Act of 1990, but we estimate the annual cost to be less than \$500,000 annually over five years.

Section 3 of H.R. 2359 would eliminate the requirement for appellants to furnish the Secretary of Veterans Affairs with a copy of the notice of appeal filed with the United States Court of Appeals for Veterans Claims (CAVC). VA supports the enactment of section 3 of this bill.

Section 7266(a) of title 38, United States Code, provides that a claimant adversely affected by a decision of the Board of Veterans' Appeals (Board) must file a notice of appeal with the CAVC within 120 days after the date on which the Board mailed notice of the decision to the appellant, in order to obtain review of the Board's decision. Subsection (b) of section 7266 requires such a claimant to furnish VA with a copy of the notice of appeal that he or she files with the CAVC.

Failure to comply with the requirement to file a notice of appeal with the CAVC within 120 days of receiving notice of an adverse Board decision ordinarily will result in a dismissal of the appeal for lack of jurisdiction. Unfortunately, in a number of instances, appellants have mailed their notices of appeal to VA, but not to the CAVC, thinking that they have complied with the statute. Some such appeals have been dismissed because the notices of appeal were not received by the CAVC within the required 120 days. We believe that removal of the requirement that an appellant furnish the Secretary with a copy of his or her notice of appeal will clarify to which entity the notice must be provided, thereby resulting in fewer cases in which appellants, through inadvertence, lose their opportunity to appeal. Removal of this notice requirement will not impair VA's ability to respond to those appeals that are properly filed with the CAVC, because the court routinely notifies VA when an appeal has been docketed. This notice is normally provided to VA within a day or two of the receipt by the CAVC of the veteran's notice of appeal.

There would be no costs associated with the enactment of this section.

#### *H.R. 1929*

Mr. Chairman, H.R. 1929 would also extend the sunset for the Native American veteran housing loan program and amend the requirements concerning MOUs. Unlike section 2 of H.R. 2359, it does not address the loan assumption notice. Accordingly, Mr. Chairman, we prefer the language of H.R. 2359, with the additional amendment we have recommended.

#### *H.R. 2361*

The "Veterans' Compensation Cost-of-Living Adjustment Act of 2001," H.R. 2361, would authorize a cost-of-living adjustment (COLA) for Fiscal Year 2002 in the rates of disability compensation and dependency and indemnity compensation (DIC). Section 2 of this bill would direct the Secretary of Veterans Affairs to increase administratively the rates of compensation for service-disabled veterans and of DIC for the

survivors of veterans whose deaths are service related, effective December 1, 2001. As provided in the President's FY 2002 budget request, the rate of increase would be the same as the COLA that will be provided under current law to veterans' pension and Social Security recipients, which is currently estimated to be 2.5 percent.

We estimate that enactment of this section would cost \$376 million during FY 2002, \$7.1 billion over the period FYs 2002–2006 and \$28.5 billion over the period FYs 2002–2011. Although this section is subject to the PAYGO requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA), the PAYGO effect would be zero because OBRA requires that the full compensation COLA be assumed in the baseline. We believe this proposed COLA is necessary and appropriate in order to protect the benefits of affected veterans and their survivors from the eroding effects of inflation. These worthy beneficiaries deserve no less.

Mr. Chairman, this concludes my statement. I will be pleased to respond to any questions you or the members of the Subcommittee may have.

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U.S. COURT OF APPEALS FOR VETERANS CLAIMS,  
CHAMBERS OF CHIEF JUDGE KENNETH B. KRAMER,  
*Washington, DC, May 24, 2001.*

Hon. CHRISTOPHER H. SMITH,  
*Chairman, Committee on Veterans' Affairs,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: On behalf of the Board of Judges of the United States Court of Appeals for Veterans Claims, I am transmitting to you draft legislation for the consideration of your Committee. We request that the bill be introduced on behalf of the Court and considered by the Committee for action at your earliest convenience.

The draft legislation proposes amendments to 38 U.S.C. § 7285 and to add a new section 7287 to chapter 72 of title 38, U.S. Code. The purpose of the proposed amendment to section 7285 is to clarify and expand the uses that may be made of the registration fees that the Court collects from its practitioners in connection with their admission to practice before the Court and from participants at the Court's Judicial Conferences carried out under 38 U.S.C. § 7286. The purpose of the proposed new section 7287 ("Administration") would be to permit the Court to exercise an administrative, management, or fund-expenditure authority available to the Article III courts where such a specific authority is not available to this Court and where its exercise would not be inconsistent with any provision of chapter 72 of title 38. A more detailed justification for each provision follows.

#### *Section 7285*

The Court requests the enactment of legislation to amend section 7285 so that the provision as amended would read as follows (material to be added is shown in bold face and material to be deleted is shown in brackets):

#### **§ 7285. Practice Fee**

(a) The Court of Appeals for Veterans Claims may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed \$30 per year. *In order to defray the expenses of judicial conferences convened pursuant to section 7286 of this title, the Court may also impose a*

*registration fee on the active participation at such conferences by persons described in that section.*

(b) Amounts received by the Court under subsection (a) of this section shall be available to the Court for the purposes of (1) *conducting investigations and proceedings, including* employing independent **[counsel]** *counsel*, to pursue disciplinary matters, and (2) defraying **[administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court]** *the expenses of judicial conferences convened pursuant to section 7286 of this title and other activities and programs that are designed to support and foster bench and bar communication and relationships or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court.*

The principal purpose of the proposal is to amend section 7285(b) of title 38, U.S. Code, so that registration fees (currently a one-time fee of \$30) paid to the Court by those admitted to practice before the Court (sometimes called “practice fees”) may be used for certain activities in addition to those now identified in that subsection. The Court currently collects these practice fees as well as the registration fees paid by participants at the Court’s periodic Judicial Conferences, which are carried out under 38 U.S.C. § 7286 (collection of the latter fees would be expressly authorized by the proposed amendment to section 7285(a) rather than by implication from section 7286 itself). Currently, the Court has accumulated a balance of approximately \$55,000 from these receipts after having expended only the relatively small amounts needed to engage the services of an ethics speaker at the last four Judicial Conferences (considered part of the presently authorized “implementing standards of proficiency prescribed for practice before the Court”).

The revised language would expand present category (1) in the subsection to include disciplinary-proceeding activities other than employing independent counsel, and would expand present category (2) so as to authorize the use of these funds to support activities (including the preparation, or procurement, and use, display, or dissemination of appropriate materials) and programs designed to support and foster bench and bar activities or the study, understanding, public commemoration, or improvement of veterans law generally or the work of the Court in particular. This expanded authority would be used to defray the expenses of, for example, activities for the following purposes: (a) To provide education programs for persons admitted to practice before the Court or persons, such as law students, eligible to seek permission to provide such representation on a pro hac vice basis; (b) to promote and support the formation and programs of a bar association for the Court (something that private practitioners and the Secretary’s attorneys are actively pursuing now); (c) to encourage and support the development of law-school courses or clinical programs in veterans law; and (d) to sponsor appropriate public activities and events designed to foster communication and relationships among the Court’s practitioners and potential practitioners and between bench and bar—for example, a Passing of the Gavel Ceremony (where a new Chief Judge takes office); the swearing in of a new judge; and a public

commemoration (such as the presentation of a portrait of a retired or deceased judge, the dedication of the courtroom, or the establishment or presentation of a Court special public service award). As is the case with the use of such nonappropriated fund accounts in the Article III courts, the funds would not be used for purposes for which appropriated funds are generally available. The support of bench-and-bar activities would generally follow the practice of the Article III courts in using practice fees for the benefit of bench and bar in the administration of justice.

#### *Section 7287*

The Court also requests the enactment of legislation to add the following new section 7287 to make available to the Court generally the same management, administrative, and expenditure authorities that are available to Article III courts of the United States:

#### **§ 7287. Administration**

Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision) applicable to a court of the United States as defined in section 451 of title 28, except to the extent that such provision of law is inconsistent with a provision of this chapter.

The proposed new section 7287 would generally make available to the Court the same management, administrative, and fund-expenditure authorities that are available to the Article III courts of the United States. Because of this Court's unusual status as an independent tribunal, established by the Congress under Article I of the Constitution to exercise judicial power, that was not intended to be subject to the control of the President or the executive branch (for example, the Court submits its budget directly to the Congress pursuant to 38 U.S.C. § 7282 and receives its appropriation directly from the Congress), the Court does not have available to it certain general authorities that would normally be available were the Court part of another administrative structure, such as are the U.S. Court of Federal Claims (under the Administrative Office of the U.S. Courts (AO)), and the U.S. Court of Appeals for the Armed Forces (under the Department of Defense). (The situation regarding the U.S. Tax Court also is unusual in that it receives its appropriation directly from the Congress and is considered for some purposes, apparently, to be part of the legislative branch, see H.R. Rep. No. 105-217, 105th Cong., 1st Sess., at 1042-43 (1997) (listing U.S. Tax Court under Legislative Branch budget accounts).)

In the past, this Court has requested the enactment of various gap-filling statutory provisions; for example, in 1990, the Congress specifically added to title 5 U.S.C. App. §§ 109(8) and 109(10) a reference to this Court so that financial disclosure reports by its judges and certain nonjudicial personnel would be filed with and reviewed by the AO (Pub. L. No. 101-280, § 3, 104 Stat. 152, 155

(1990) (amendments to Ethics in Government Act of 1978, as amended by Ethics Reform Act of 1989)); in 1991, the Congress added subsection (g) to 38 U.S.C. § 7253 to provide that a process comparable to that prescribed by 28 U.S.C. § 372(c) for consideration of complaints of judicial conduct would apply to the Court's judges (Pub. L. No. 102-82, § 3, 105 Stat. 375 (1991)); in 1991, the Congress added subsection (c) to 38 U.S.C. § 7264 to make applicable to the Court's judges 28 U.S.C. § 455 relating to the disqualification of judges (Pub. L. No. 102-82, § 4, 105 Stat. 375, 376 (1991)); also in 1991, the Congress added subsection (i) to 38 U.S.C. § 7281 to give the Court specific authority to accept and utilize voluntary services (Pub. L. No. 102-82, § 7, 105 Stat. 375, 377 (1991)). The Court's special stand-alone nature is also reflected in the provisions of 38 U.S.C. § 7281(a) through (g), which permit the Court to develop its own personnel and job classification system for its judicial and nonjudicial personnel. Accordingly, unless there were a gap in the Court's personnel-related authorities, the Court would not intend to use the proposed new section 7287 for purposes of personnel classification, appointment, and compensation.

Rather than having to request legislation each time that the Court becomes aware of an administrative authority that is lacking, the proposed new section 7287 would provide a generic authority that would enable the Court to utilize already existing court-related management, administrative, and fund-expenditure authorities that are appropriate for the efficient operation of the Court. Recently, for example, the Court has become aware of two authorities that it is lacking that seem to be generally available to the rest of the Federal Government. They both relate to reducing the risk of personal liability for official actions taken by the Court's judges or certain of its employees. In 1999, the Congress enacted, at the request of the AO, a provision that would permit certifying and disbursing officers in Article III and certain other courts to receive the same protection against personal liability for their expenditure decisions, by requesting a decision from the Comptroller General, that is available to certifying and disbursing officers in the executive and legislative branches. See Federal Courts Improvement Act of 2000, Pub. L. No. 106-518, § 304(c), 114 Stat. 2410, 2417 (2000), adding a new provision codified at 28 U.S.C. § 613; 31 U.S.C. § 3529 (executive branch certifying and disbursing officers authorized to seek Comptroller General opinions). Also, authority was made available in 1999 to those courts to pay one half of the cost of premiums for personal-liability insurance policies that are obtained to protect judges and certain employees against liability for official actions. See Pub. L. No. 105-277, § 101(h), 112 Stat. 2681-526 (1998) (amending 5 U.S.C. Subchapter IV note (found preceding 5 U.S.C. § 5941); see also Pub. L. No. 106-58, § 642(a), 113 Stat. 430, 477 (1999) (making such reimbursement mandatory). Such authority has been available to certain law-enforcement employees and supervisors or management officials in the executive or legislative branch since 1996, pursuant to 5 U.S.C. Subchapter IV note (found preceding 5 U.S.C. § 5941). See Pub. L. No. 104-208, 110 Stat. 3009-363 (1996).

Under the proposed new section 7287, the Court would not have available to it any provision of law that is inconsistent with any provision of chapter 72 of title 38 and would have to abide by all

limitations with respect to the authorities themselves. The Court would intend to exercise any authority made available by the new provision in a manner consistent with the exercise of such authority by the Article III courts and would notify the Committees on Veterans' Affairs whenever the Court established a procedure for the exercise of or otherwise exercised such an authority.

\* \* \* \* \*

I would be glad to answer any questions that you or the Committee may have about the proposed legislation we are submitting. The Court greatly appreciates your continued support and that of the Committee.

Sincerely,

KENNETH B. KRAMER,  
*Chief Judge.*

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U.S. COURT OF APPEALS FOR VETERANS CLAIMS,  
CHAMBERS OF CHIEF JUDGE KENNETH B. KRAMER,  
*Washington, DC, June 27, 2001.*

Hon. CHRISTOPHER H. SMITH,  
*Chairman, Committee on Veterans' Affairs,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: In response to concerns raised by your Committee staff about the proposed legislation that I submitted on May 24, 2001, on behalf of the Court, enclosed is page 2 of that draft bill with changes that would make the registration-fee discretionary authority more generic and avoid a possible need for additional legislation in the future. We greatly appreciate the suggestion and your interest in proceeding with our proposed bill.

If you have any questions on this matter, please let me know.

Sincerely,

KENNETH B. KRAMER,  
*Chief Judge*

Enclosure.

*June 27, 2001.*

[Enclosure first page.]

**SEC. 2. REGISTRATION FEES.**

(a) Section 7285(a) of title 38, United States Code, is amended by adding the following sentence at the end: "The Court may also impose registration fees on persons participating at judicial conferences convened pursuant to section 7286 of this title and in other Court-sponsored activities."

(b) Section 7285(b) of such title is amended by —

(1) inserting "conducting investigations and proceedings, including" in clause (1) after "(1)";

(2) inserting a comma after "counsel" in clause (1);  
and

(3) striking "administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court" in clause (2) and insert-



ing in lieu thereof “the expenses of judicial conferences convened pursuant to section 7286 of this title and other activities and programs that are designed to support and foster bench and bar communication and relationships or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court.”.

(c)(1) The heading for such section is amended by striking “**Practice fee**” and inserting in lieu thereof “**Registration fees**”.

(2) The table of sections at the beginning of chapter 72 of such title is amended by striking “**Practice fee.**” and inserting in lieu thereof “**Registration fees.**” in the item related to section 7285.

### SEC. 3. ADMINISTRATIVE AUTHORITIES.

(a) Subchapter III of chapter 72 of title 38, United States, is amended by inserting after section 7286 the following new section:

[Enclosure second page.]

#### “§ 7287. Administration

“Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision) applicable to a court of the United States as defined in section 451 of title 28, except to the extent that such provision of law is inconsistent with a provision of this chapter.”.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item related to section 7286 the following new item:

#### “7287. Administration.”.

### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 20, 2001.*

Hon. CHRISTOPHER H. SMITH  
*Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2540, the Veterans Benefits Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Michelle Patterson, who can be reached at 226-2840.

Sincerely,

DAN L. CRIPPEN,  
*Director*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*July 20, 2001.*

H.R. 2540, VETERANS BENEFITS ACT OF 2001, AS ORDERED REPORTED  
BY THE HOUSE COMMITTEE ON VETERANS' AFFAIRS ON JULY 19, 2001

**SUMMARY.** The Veterans Benefits Act of 2001 would affect several veterans' programs, including compensation, insurance, medical care, and housing. CBO estimates that enacting this legislation would reduce direct spending by \$801 million over the 2002-2006 period and \$702 million over the 2002-2011 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply. In addition, CBO estimates that implementing H.R.2540 would increase spending subject to appropriation by \$1 million in 2001, \$47 million in 2002, and \$781 million over the 2001-2006 period, assuming appropriation of the necessary amounts.

The bill also would increase the amounts paid to veterans for disability compensation and to their survivors for dependency and indemnity compensation by the same cost-of-living adjustment (COLA) payable to Social Security recipients. Because the COLA authorized by this bill is assumed in the budget resolution baseline, the bill would have no budgetary effect relative to the baseline. Relative to current law, CBO estimates that enacting this bill would increase spending for these programs by about \$407 million in 2002. (The increase would take effect on December 1, 2001, and would amount to \$543 million on an annualized basis.)

H.R. 2540 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

**ESTIMATED COST TO THE FEDERAL GOVERNMENT.** The estimated budgetary impact of H.R. 2540 is shown in Table 1. This estimate assumes the legislation will be enacted by September 2001. The costs of this legislation fall within budget function 700 (veterans benefits and services).

Table 1. Estimated Budgetary Impact of H.R. 2540

	By Fiscal Year, in Millions of Dollars					
	2001	2002	2003	2004	2005	2006
<b>CHANGES IN DIRECT SPENDING</b>						
Estimated Budget Authority .....	0	<sup>a</sup>	-181	-201	-202	-222
Estimated Outlays .....	0	<sup>a</sup>	-169	-208	-202	-222
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
Estimated Authorization Level ..	50	3	219	226	237	245

Table 1. Estimated Budgetary Impact of H.R. 2540—Continued

	By Fiscal Year, in Millions of Dollars					
	2001	2002	2003	2004	2005	2006
Estimated Outlays .....	1	47	104	191	215	223

<sup>a</sup>Savings of less than \$500,000.

### ***BASIS OF ESTIMATE.***

#### **DIRECT SPENDING**

The legislation would affect direct spending in veterans' programs for compensation, insurance, and housing, as well as offsetting receipts related to veterans' medical care (see Table 2).

**HEALTH SERVICES IMPROVEMENT FUND.** Section 402 would extend the authority to collect copayments for outpatient prescriptions through September 30, 2006. Under current law, this authority expires on September 30, 2002. The Department of Veterans Affairs (VA) currently collects a \$2 copayment for each outpatient prescription it fills; using statutory authority, it is planning to increase the copayment to \$7 per prescription. The \$2 copayment is currently deposited into the Medical Care Collections Fund (MCCF). Under current law, amounts deposited to the MCCF are considered to be offsets to discretionary appropriations and spending from the MCCF is subject to annual appropriations. The \$5 increase in the prescription copayment and other receipts will be deposited into the Health Services Improvement Fund (HSIF). Under current law, amounts deposited to the HSIF are considered offsets to direct spending, and VA may spend amounts in the HSIF without appropriations action. CBO estimates that extending the authority to collect prescription copayments would result in receipts of \$300 million to \$340 million a year, totaling about \$1.3 billion over the 2003–2006 period. Of that amount, \$0.9 billion would be an offset to direct spending (from the \$5 increase in copayments) and \$0.4 billion would be an offset to discretionary spending (from the \$2 copayments).

Section 403 of the bill would remove the automatic spending authority for funds in the HSIF and make spending from the HSIF subject to appropriation, beginning on October 1, 2002. Consequently, extension of the copayment requirement would not result in additional direct spending. Rather, about \$11 million in direct spending currently projected over the 2003–2011 period would be eliminated.

Table 2. Estimated Changes in Direct Spending under H.R. 2540

	By Fiscal Year, Outlays in Millions of Dollars					
	2001	2002	2003	2004	2005	2006
<b>DIRECT SPENDING</b>						
Health Services Improvement Fund						
Estimated Budget Authority ...	0	0	–217	–225	–236	–245
Estimated Outlays .....	0	0	–205	–232	–236	–245

Table 2. Estimated Changes in Direct Spending under H.R. 2540—Continued

By Fiscal Year, Outlays in Millions of Dollars						
	2001	2002	2003	2004	2005	2006
Compensation Related to Undiagnosed Illnesses						
Estimated Budget Authority ...	0	0	36	24	23	22
Estimated Outlays .....	0	0	36	24	23	22
Veterans Insurance						
Estimated Budget Authority ...	0	0	0	0	11	1
Estimated Outlays .....	0	0	0	0	11	1
Home Loans for Native American Veterans						
Estimated Budget Authority ...	0	a	a	a	a	a
Estimated Outlays .....	0	a	a	a	a	a
<b>SUMMARY OF CHANGES IN DIRECT SPENDING</b>						
Estimated Budget Authority .....	0	a	-181	-201	-202	-222
Estimated Outlays .....	0	a	-169	-208	-202	-222

<sup>a</sup> Less than \$500,000.

COMPENSATION RELATED TO UNDIAGNOSED ILLNESSES. Section 202 would expand the definition of undiagnosed illness for the purpose of granting service-connected disability compensation to more Persian Gulf War veterans. Under current law, veterans who served in the Persian Gulf from August 2, 1990, to the present can be presumed to have a compensable disability if they exhibit symptoms that cannot be attributed to any diagnosable illness before December 31, 2001. Such symptoms include joint pain, headaches, sleep disorders, and respiratory problems. This section would expand eligibility to those Gulf War veterans who are diagnosed with any illness that cannot be clearly defined, including chronic fatigue syndrome (CFS), fibromyalgia, and chronic multisymptom illness. In addition to the diseases listed in the bill, CBO assumes that other diseases for which veterans could receive service-connected disability include irritable bowel syndrome, multiple chemical sensitivity (MCS), and autoimmune disorder.

CBO obtained data from the VA on the number of Gulf War veterans who have been diagnosed with ill-defined illnesses like CFS and fibromyalgia and have had their claims for compensation denied. VA was unable to provide similar data for MCS or chronic multisymptom illness because it does not have diagnostic codes for these illnesses. CBO used data from a comprehensive study of Gulf War veterans' health to estimate the incidence of MCS within that population. Because chronic multisymptom illness often exhibits similar symptoms as CFS or fibromyalgia, CBO assumed that most veterans with this illness are likely to have already been diagnosed as having these other diseases.

From the data provided by VA, CBO could not estimate the prevalence of autoimmune disorders that might be attributed to service in the Gulf War. VA does not have a single diagnostic code for this illness but, instead, classifies over a dozen widely varying diseases as autoimmune disorders.

Assuming that some of the diagnoses are overlapping and that some previously denied cases would likely be resubmitted, CBO estimates that enactment of this bill would result in about 3,000 additional veterans being granted compensation for a service-con-

nected disability. Under current law, a veteran must have exhibited and documented signs and symptoms of an illness before December 31, 2001, to receive benefits for a service-connected disability relating to Persian Gulf service, so most claims would probably be submitted in 2002. Because this section of the bill would take effect on April 1, 2002, and since VA takes an average of six months to adjudicate reopened claims, CBO expects that no payments would be made in 2002. Based on payment data from VA for approved claims for CFS, fibromyalgia, and similar illnesses, CBO estimates the average annual benefit for such illnesses would be about \$8,000 in 2003. As a result, CBO estimates that enacting section 202 would increase direct spending by \$36 million in 2003, \$105 million from 2002 through 2006, and \$204 million over the 2002–2011 period. (Under current law, we estimate that disability compensation payments to veterans will total \$254 billion over the 10-year period.)

**VETERANS INSURANCE.** Section 401 of the bill would allow for the payment of certain insurance proceeds to an alternate beneficiary when the primary beneficiary cannot be identified. Under current law, there is no time limitation for when a named primary beneficiary of a National Service Life Insurance or United States Government Life Insurance policy must file a claim for the insurance proceeds. VA is currently required to hold the unclaimed proceeds indefinitely. According to the VA, there are about 4,000 existing policies in these two programs for which payments have not been made because the primary beneficiary cannot be located. The bill would authorize VA to pay an alternate beneficiary if no claim has been made by the primary beneficiary within three years of the policyholder's death. If no designated beneficiary makes a claim within five years of the policyholder's death, VA would be allowed to make a payment to any such person who may be judged to be entitled to the proceeds. If the policyholder died before the enactment of this bill, the above time requirements would begin on the date of the bill's enactment.

Based on information provided by VA, CBO assumes an eventual payment of proceeds would be made on about two-thirds of the policies when the primary beneficiary cannot be located. As a result, CBO estimates that enacting this section would increase direct spending by \$11 million in 2005, \$12 million over the 2002–2006 period, and \$22 million over the 2002–2011 period. VA indicates that two additional employees would need to be hired to process these claims. CBO estimates that the resulting increase in discretionary spending for salaries and benefits would be less than \$500,000 per year, assuming appropriation of necessary amounts.

**HOME LOANS FOR NATIVE AMERICAN VETERANS.** Section 404 would extend the Native American Veteran Housing Loan Pilot Program through December 31, 2005. Under the program, VA makes direct loans to veterans living on trust lands for the purchase, construction, or improvement of a home. In 1993, Public Law 102–389 provided appropriations of \$4.5 million for the subsidy cost of these loans. Since the program's inception, VA has made about 200 loans at a subsidy cost of \$2 million.

CBO estimates that under the bill, VA would subsidize about 30 loans a year at an annual cost of about \$250,000. Because these

outlays would be from funds already appropriated and would not depend on future appropriation action, they would be considered direct spending. In addition, CBO estimates that VA's administrative expenses, a discretionary cost, would be roughly \$500,000 in 2002 and \$2 million over the 2002–2006 period, assuming appropriation of the necessary amounts.

**OTHER PROVISIONS.** CBO estimates that the following provisions would have no net effect on direct spending.

*Compensation Related to Diabetes Mellitus.*—Section 201 would codify diabetes mellitus (type 2) as a disability with presumed service connection based on exposure to Agent Orange and other herbicides during the Vietnam War. Under current law, VA may add to the regulations establishing service-connected disability any disease that scientific study has determined to have a positive association with herbicide agents. Specifically, the Institute of Medicine (IOM) produces a report every two years that evaluates current research findings and categorizes diseases according to the amount of evidence suggesting an association with herbicides. In October 2000, the IOM concluded there was evidence suggesting an association for diabetes mellitus. VA began the appropriate procedures to establish this condition as one of the diseases for which there is a presumption of service connection for Vietnam War veterans. On July 9, 2001, this regulation went into effect. Because this bill would codify a regulation already in existence, no costs would be associated with this section.

*Cost-of-Living Adjustment.*—Section 101 of the bill would increase the amounts paid to veterans for disability compensation and to their survivors for dependency and indemnity compensation by the same COLA payable to Social Security recipients. The increase would take effect on December 1, 2001, and the results of the adjustment would be rounded to the next lower dollar.

The COLA that would be authorized by this bill is assumed in the budget resolution baseline, pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act, and savings from rounding it down were achieved by the Balanced Budget Act of 1997 (Public Law 105–33). As a result, the bill would have no budgetary effect relative to the baseline. Relative to current law, CBO estimates that enacting this bill would increase spending for these programs by about \$407 million in 2002. This estimate assumes that the COLA effective on December 1, 2001, would be 2.7 percent. (The 2002 cost on an annualized basis would be \$543 million, which would be the approximate cost in subsequent years.)

#### SPENDING SUBJECT TO APPROPRIATION

Table 3 shows the estimated effects of H.R. 2540 on discretionary spending for veterans' programs, assuming that appropriations are provided and receipts are collected in the amount of the estimated authorizations.

**DISCRETIONARY OFFSETTING RECEIPTS.** Section 402 would extend the authority to collect prescription copayments through September 30, 2006. As discussed above under "Health Services Improvement Fund," a portion of those receipts are deposited to the MCCF and recorded as an offset to discretionary appropriations. CBO esti-

mates that under H.R. 2540, discretionary offsetting receipts would be \$86 million in 2003 and would total \$366 million through the end of 2006.

Table 3. Estimated Changes in Spending Subject to Appropriation for H.R. 2540

	By Fiscal Year, in Millions of Dollars					
	2001	2002	2003	2004	2005	2006
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
Spending Under Current Law for VA Medical Care						
Estimated Authorization Level <sup>a</sup> .....	20,863	21,767	22,150	33,888	23,603	24,344
Estimated Outlays .....	20,418	21,447	22,021	22,654	23,353	24,085
Proposed Changes						
Offsetting Receipts						
Estimated Authorization Level .....	0	0	-86	-90	-93	-97
Estimated Outlays .....	0	0	-86	-90	-93	-97
Spending of Receipts						
Estimated Authorization Level .....	0	0	303	315	329	342
Estimated Outlays .....	0	0	183	280	307	320
Homeless Veterans Programs						
Authorization Level .....	50	0	0	0	0	0
Estimated Outlays .....	1	44	5	0	0	0
Subtotal-Proposed Changes						
Estimated Authorization Level ....	50	0	217	225	236	245
Estimated Outlays .....	1	44	102	190	214	223
Spending Under H.R. 2540 for VA Medical Care						
Authorization Level .....	20,913	21,767	22,367	23,113	23,839	24,589
Estimated Outlays .....	20,419	21,491	22,123	22,844	23,567	24,308
Spending Under Current Law for General Operating Expenses						
Estimated Authorization Level <sup>a</sup> .....	1,080	1,129	1,168	1,209	1,249	1,290
Estimated Outlays .....	1,066	1,124	1,164	1,205	1,245	1,286
Proposed Changes:						
Toll-Free Number Pilot Program						
Estimated Authorization Level .....	0	2	1	0	0	0
Estimated Outlays .....	0	2	1	0	0	0
Spending Under H.R. 2540 for General Operating Expenses						
Estimated Authorization Level .....	1,080	1,131	1,169	1,209	1,249	1,290
Estimated Outlays .....	1,066	1,126	1,165	1,205	1,245	1,286
Spending Under Current Law for Housing Loans						
Estimated Authorization Level <sup>a,c</sup> .....	1	1	1	1	1	1
Estimated Outlays .....	1	1	1	1	1	1
Proposed Changes						
Estimated Authorization Level .....	0	1	1	1	1	<sup>b</sup>
Estimated Outlays .....	0	1	1	1	1	<sup>b</sup>
Spending Under H.R. 2540 for Housing Loans						
Estimated Authorization Level <sup>c</sup> .....	1	1	1	1	1	1
Estimated Outlays .....	1	1	1	1	1	1
<b>SUMMARY OF CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>						
Estimated Authorization Level .....	50	3	219	226	237	245
Estimated Outlays .....	1	47	104	191	215	223

<sup>a</sup>The 2001 level is the estimated amount appropriated for that year including the spending of MCCF receipts. The current-law amounts for the 2002-2006 period assume that appropriations continue at the 2001 level with adjustments for anticipated inflation, and that the current appropriation to spend MCCF receipts continues.

<sup>b</sup>Less than \$500,000

<sup>c</sup>Both the current program and the proposed change are more than \$500,000 but less than \$1 million.

As under current law, any spending from the MCCF would need to be provided through annual appropriation. In addition, spending from the HSIF also would be subject to annual appropriation under H.R. 2540. If the full amount of the receipts is appropriated each year, CBO estimates that outlays from these appropriations would total \$183 million in 2003 and more than \$1 billion over the period ending in 2006.

**TOLL-FREE NUMBER PILOT PROGRAM.** Section 406 would require the VA to conduct a pilot program to test the benefits and cost-effectiveness of expanding access to veterans service representatives through a toll-free telephone number. Under the pilot program, veterans benefits counselors would be available to take the calls from veterans for not less than 12 hours on regular business days and not less than six hours on Saturday. In addition, the counselors would have to be able to provide information on veterans benefits provided by state governments and other federal departments and agencies. The pilot program would begin within six months after enactment of the bill and run for two years.

Today, veterans who call the primary toll-free number for VA (1-800-827-1000) are routed to the nearest regional office that specializes in the benefits for which the veteran has indicated he or she has most interest. These offices answer the telephones about 7 hours per business day. The VA has recently modified its computer system to enable veterans benefits counselors to provide information on state benefits to callers, and the department is working to expand its data system to include those programs offered to veterans by other federal agencies. Based on information provided by VA, CBO assumes that additional staff would have to be hired to handle the increased work load. CBO estimates that implementing this section will increase discretionary spending by \$2 million in 2002 and \$3 million over the 2002-2006 period, assuming appropriation of the necessary amounts.

**HOMELESS VETERANS PROGRAMS.** Section 408 would amend the Homeless Veterans Comprehensive Service Programs Act of 1992 and would authorize \$50 million for fiscal year 2001 for programs under that act. Assuming appropriation of the authorized amount by early in September 2001, CBO estimates that outlays would increase by \$1 million in 2001 and by \$50 million over the 2001-2006 period.

**PAY-AS-YOU-GO CONSIDERATIONS.** The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

Table 4. Estimated Impact of H.R. 2540 on Direct Spending and Receipts

	By Fiscal Year, in Millions of Dollars										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays ..	0	0	-169	-208	-202	-222	25	20	19	18	17



Table 4. Estimated Impact of H.R. 2540 on Direct Spending and Receipts—Continued

	By Fiscal Year, in Millions of Dollars										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in receipts	Not Applicable										

*INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT.* H.R. 2540 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments. The bill would amend an existing home loan program for Native American veterans to simplify the role of tribal governments. Under current law, a veteran living on tribal trust land may participate in this program only if his or her tribal government has entered into a memorandum of understanding with the Department of Veterans Affairs. The proposed change would allow similar memorandums of understanding with other federal agencies to fulfill this requirement.

*PREVIOUS CBO ESTIMATE.* On July 5, 2001, CBO prepared a cost estimate for H.R.1929, the Native American Veterans Home Loan Act of 2001, as introduced in the House on May 21, 2001. Section 402 of H.R. 2540 is similar to H.R. 1929, and its costs are identical.

*ESTIMATE PREPARED BY:*

Compensation and Insurance: Michelle Patterson (226–2840).  
 Health Care: Sam Papenfuss (226–2840).  
 Housing: Sunita D'Monte (226–2840).  
 Impact on State, Local, and Tribal Governments: Elyse Goldman (225–3220).  
 Impact on the Private Sector: Allison Percy (226–2900).

*ESTIMATE APPROVED BY:*

Robert A. Sunshine, Assistant Director for Budget Analysis.

STATEMENT OF FEDERAL MANDATES

The preceding Congressional Budget Office cost estimate states that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## TITLE 38, UNITED STATES CODE

\* \* \* \* \*

### PART I—GENERAL PROVISIONS

\* \* \* \* \*

#### CHAPTER 1—GENERAL

Sec.

101. Definitions.

\* \* \* \* \*

117. *Definition of cost of direct and guaranteed loans.*

\* \* \* \* \*

#### **§ 117. Definition of cost of direct and guaranteed loans**

*For the purpose of any provision of law appropriating funds to the Department for the cost of direct or guaranteed loans, the cost of any such loan, including the cost of modifying any such loan, shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).*

\* \* \* \* \*

#### CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

\* \* \* \* \*

#### **§ 313. Availability of appropriations**

(a) \* \* \*

\* \* \* \* \*

(c) *COMPENSATION AND PENSION.—Funds appropriated for Compensation and Pensions are available for the following purposes:*

(1) *The payment of compensation benefits to or on behalf of veterans as authorized by section 107 and chapters 11, 13, 51, 53, 55, and 61 of this title.*

(2) *Pension benefits to or on behalf of veterans as authorized by chapters 15, 51, 53, 55, and 61 of this title and section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978.*

(3) *The payment of benefits as authorized under chapter 18 of this title.*

(4) *Burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payments of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 540 et seq.), and other benefits as authorized by sections 107, 1312, 1977, and 2106 and chapters 23, 51, 53, 55, and 61 of this title and the World War Adjusted Compensation Act (43 Stat. 122, 123), the Act of May 24, 1928 (Public Law No. 506 of the 70th Congress; 45 Stat. 735), and Public Law 87–875 (76 Stat. 1198).*

(d) *MEDICAL CARE.*—Funds appropriated for Medical Care are available for the following purposes:

(1) *The maintenance and operation of hospitals, nursing homes, and domiciliary facilities.*

(2) *Furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department, including care and treatment in facilities not under the jurisdiction of the Department.*

(3) *Furnishing recreational facilities, supplies, and equipment.*

(4) *Funeral and burial expenses and other expenses incidental to funeral and burial expenses for beneficiaries receiving care from the Department.*

(5) *Administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department.*

(6) *Oversight, engineering, and architectural activities not charged to project cost.*

(7) *Repairing, altering, improving, or providing facilities in the medical facilities and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials.*

(8) *Uniforms or uniform allowances, as authorized by sections 5901 and 5902 of title 5.*

(9) *Aid to State homes, as authorized by section 1741 of this title.*

(10) *Administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of this title and Public Law 87-693, popularly known as the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.).*

(e) *MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES.*—Funds appropriated for Medical Administration and Miscellaneous Operating Expenses are available for the following purposes:

(1) *The administration of medical, hospital, nursing home, domiciliary, construction, supply, and research activities authorized by law.*

(2) *Administrative expenses in support of planning, design, project management, architectural work, engineering, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department, including site acquisition.*

(3) *Engineering and architectural activities not charged to project costs.*

(4) *Research and development in building construction technology.*

(f) *GENERAL OPERATING EXPENSES.*—Funds appropriated for General Operating Expenses are available for the following purposes:

(1) *Uniforms or allowances therefor.*

(2) *Hire of passenger motor vehicles.*

(3) *Reimbursement of the General Services Administration for security guard services.*

(4) *Reimbursement of the Department of Defense for the cost of overseas employee mail.*

(5) *Administration of the Service Members Occupational Conversion and Training Act of 1992 (10 U.S.C. 1143 note).*

(g) *CONSTRUCTION.—Funds appropriated for Construction, Major Projects, and for Construction, Minor Projects, are available, with respect to a project, for the following purposes:*

(1) *Planning.*

(2) *Architectural and engineering services.*

(3) *Maintenance or guarantee period services costs associated with equipment guarantees provided under the project.*

(4) *Services of claims analysts.*

(5) *Offsite utility and storm drainage system construction costs.*

(6) *Site acquisition.*

(h) *CONSTRUCTION, MINOR PROJECTS.—In addition to the purposes specified in subsection (g), funds appropriated for Construction, Minor Projects, are available for—*

(1) *repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by a natural disaster or catastrophe; and*

(2) *temporary measures necessary to prevent or to minimize further loss by such causes.*

\* \* \* \* \*

## CHAPTER 7—EMPLOYEES

Sec.

701. Placement of employees in military installations.

\* \* \* \* \*

【712. Full-time equivalent positions: limitation on reduction.】

\* \* \* \* \*

### 【§ 712. Full-time equivalent positions: limitation on reduction

【(a) Notwithstanding any other provision of law, the number of full-time equivalent positions in the Department of Veterans Affairs during the period beginning on the date of the enactment of this section and ending on September 30, 1999, may not (except as provided in subsection (c)) be less than 224,377.

【(b) In determining the number of full-time equivalent positions in the Department of Veterans Affairs during a fiscal year for purposes of ensuring under section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 115; 5 U.S.C. 3101 note) that the total number of full-time equivalent positions in all agencies of the Federal Government during a fiscal year covered by that section does not exceed the limit prescribed for that fiscal year under that section, the total number of full-time equivalent positions in the Department of Veterans Affairs during that fiscal year shall be the number equal to—

【(1) the number of such positions in the Department during that fiscal year, reduced by

【(2) the sum of the following:

[(A) The number of such positions in the Department during that fiscal year that are filled by employees whose salaries and benefits are paid primarily from funds other than appropriated funds.

[(B) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8153 of this title or under section 201 of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4949; 38 U.S.C. 8111 note).

[(c) The Secretary shall not be required to make a reduction in the number of full-time equivalent positions in the Department unless such reduction—

[(1) is necessary due to a reduction in funds available to the Department; or

[(2) is required under a law that is enacted after the date of the enactment of this section and that refers specifically to this section.

[(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report, through the year 2000, on the number and type of full-time equivalent positions in the Department that are reduced under this section. The report shall include a justification for the reductions and shall be submitted with the materials provided in support of the budget for the Department contained in the President's budget submitted to Congress for a fiscal year pursuant to section 1105 of title 31.]

\* \* \* \* \*

## PART II—GENERAL BENEFITS

\* \* \* \* \*

### CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

\* \* \* \* \*

#### SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

\* \* \* \* \*

#### **§ 1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents**

(a)(1) \* \* \*

(2) The diseases referred to in paragraph (1)(A) of this subsection are the following:

(A) \* \* \*

\* \* \* \* \*

(H) *Diabetes Mellitus (Type 2)*.

\* \* \* \* \*

**§ 1117. Compensation for disabilities occurring in Persian Gulf War veterans**

(a) The Secretary may pay compensation under this subchapter to any Persian Gulf veteran suffering from a chronic disability resulting from an undiagnosed illness (or combination of undiagnosed illnesses) *or fibromyalgia, chronic fatigue syndrome, a chronic multisymptom illness, or any other illness that cannot be clearly defined (or combination of illnesses that cannot be clearly defined)* that—

(1) \* \* \*

\* \* \* \* \*

(c)(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection for an undiagnosed illness (or combination of undiagnosed illnesses) *or fibromyalgia, chronic fatigue syndrome, a chronic multisymptom illness, or any other illness that cannot be clearly defined (or combination of illnesses that cannot be clearly defined)* previously established under this section is no longer warranted—

(A) a veteran who was awarded compensation under this section for such illness (or combination of illnesses) on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

\* \* \* \* \*

(g) *For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the following:*

- (1) *Fatigue.*
- (2) *Unexplained rashes or other dermatological signs or symptoms.*
- (3) *Headache.*
- (4) *Muscle pain.*
- (5) *Joint pain.*
- (6) *Neurologic signs or symptoms.*
- (7) *Neuropsychological signs or symptoms.*
- (8) *Signs or symptoms involving the respiratory system (upper or lower).*
- (9) *Sleep disturbances.*
- (10) *Gastrointestinal signs or symptoms.*
- (11) *Cardiovascular signs or symptoms.*
- (12) *Abnormal weight loss.*
- (13) *Menstrual disorders.*

(h)(1) *If the Secretary determines with respect to a medical research project sponsored by the Department that it is necessary for the conduct of the project that Persian Gulf veterans in receipt of compensation under this section or section 1118 of this title participate in the project without the possibility of loss of service connection under either such section, the Secretary shall provide that service connection granted under either such section for disability of a veteran who participated in the research project may not be terminated.*

(2) Paragraph (1) does not apply in a case in which—

(A) the original award of compensation or service connection was based on fraud; or

(B) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

(3) The Secretary shall publish in the Federal Register a notice of each determination made by the Secretary under paragraph (1) with respect to a medical research project.

**§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War**

(a)(1) \* \* \*

\* \* \* \* \*

(4) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the signs and symptoms listed in section 1117(g) of this title.

\* \* \* \* \*

**CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE**

\* \* \* \* \*

**SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT**

\* \* \* \* \*

**§ 1710B. Extended care services**

(a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

(2) Paragraph (1) shall not apply—

(A) \* \* \*

(B) with respect to an episode of extended care services that a veteran is being furnished by the Department on November 30, 1999.

\* \* \* \* \*

**SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS**

\* \* \* \* \*

**§ 1722A. Copayment for medications**

(a) \* \* \*

\* \* \* \* \*

(d) The provisions of subsection (a) expire on September 30, [2002] 2006.

\* \* \* \* \*

**§ 1729B. Health Services Improvement Fund**

(a) \* \* \*

(b) Amounts received or collected after the date of the enactment of this section under any of the following provisions of law shall be deposited in the fund:

[(1) Section 1713A of this title.]

[(2)] (1) Section 1722A(b) of this title.

[(3)] (2) Section 8165(a) of this title.

[(4)] (3) Section 113 of the Veterans Millennium Health Care and Benefits Act.

(c) [Amounts in the fund are hereby available,] *Subject to the provisions of appropriations Acts, amounts in the fund shall be available, without fiscal year limitation, to the Secretary for the purposes stated in subparagraphs (A) and (B) of section 1729A(c)(1) of this title.*

\* \* \* \* \*

**CHAPTER 19—INSURANCE**

\* \* \* \* \*

**SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE**

\* \* \* \* \*

**§ 1917. Insurance maturing on or after August 1, 1946**

(a) \* \* \*

\* \* \* \* \*

(f)(1) *Following the death of the insured—*

*(A) if the first beneficiary otherwise entitled to payment of the insurance proceeds does not make a claim for such payment within three years after the death of the insured, payment of the proceeds may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and*

*(B) if within five years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment of the insurance proceeds may (notwithstanding any other provision of law) be made to such person as may in the judgment of the Secretary be equitably entitled to the proceeds of the policy.*

*(2) Payment of insurance proceeds under paragraph (1) shall be a bar to recovery by any other person.*

\* \* \* \* \*

**SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE**

\* \* \* \* \*

**§ 1951. Payment of insurance**

(a) United States Government life insurance, except as provided in this subchapter, shall be payable in two hundred and forty equal



monthly installments. When the amount of an individual monthly payment is less than \$5, such amount may in the discretion of the Secretary be allowed to accumulate without interest and be disbursed annually.

(b)(1) *Following the death of the insured—*

(A) *if the first beneficiary otherwise entitled to payment of the insurance proceeds does not make a claim for such payment within three years after the death of the insured, payment of the proceeds may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and*

(B) *if within five years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment of the insurance proceeds may (notwithstanding any other provision of law) be made to such person as may in the judgment of the Secretary be equitably entitled to the proceeds of the policy.*

(2) *Payment of insurance proceeds under paragraph (1) shall be a bar to recovery by any other person.*

\* \* \* \* \*

## CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

\* \* \* \* \*

### SUBCHAPTER II—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

#### § 3695. Limitation on period of assistance under two or more programs

(a) The aggregate period for which any person may receive assistance under two or more of the provisions of law listed below may not exceed 48 months (or the part-time equivalent thereof):

(1) \* \* \*

\* \* \* \* \*

(5) Chapters 107, 1606, and [1610] 1611 of title 10.

\* \* \* \* \*

## CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

\* \* \* \* \*

### SUBCHAPTER II—LOANS

\* \* \* \* \*

#### § 3714. Assumptions; release from liability

(a) \* \* \*

\* \* \* \* \*

[(d) The Secretary shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by

a person with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Secretary shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2 and 1/2 times larger than the regular type on such page the following: This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent.】

(d) *With respect to a loan guaranteed, insured, or made under this chapter, the Secretary shall provide, by regulation, that at least one instrument evidencing either the loan or the mortgage or deed of trust therefor, shall conspicuously contain, in such form as the Secretary shall specify, a notice in substantially the following form: “This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent”.*

\* \* \* \* \*

#### SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

##### § 3761. Pilot program

(a) \* \* \*

\* \* \* \* \*

(c) No loans may be made under this subchapter after December 31, [2001] 2005.

##### § 3762. Direct housing loans to Native American veterans

(a) The Secretary may make a direct housing loan to a Native American veteran if—

(1)(A) the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; [and] or

(B) *the tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to direct housing loans to Native Americans that the Secretary determines substantially complies with the requirements of subsection (b); and*

\* \* \* \* \*

### PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

\* \* \* \* \*

#### CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

##### SUBCHAPTER I—ORGANIZATION AND JURISDICTION

Sec.  
7251.

Status.

\* \* \* \* \*

## SUBCHAPTER III—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

7285. **[Practice fee]** *Practice and registration fees.*  
 7286. *Judicial Conference of the Court.*  
 7287. *Administration.*

\* \* \* \* \*

## SUBCHAPTER II—PROCEDURE

\* \* \* \* \*

**§ 7266. Notice of appeal**

(a)**[(1)]** In order to obtain review by the Court of Appeals for Veterans Claims of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.

**[(2)]** (b) An appellant shall file a notice of appeal under this section by delivering or mailing the notice to the Court.

**[(3)]** (c) A notice of appeal shall be deemed to be received by the Court as follows:

**[(A)]** (1) On the date of receipt by the Court, if the notice is delivered.

**[(B)]** (2) On the date of the United States Postal Service postmark stamped on the cover in which the notice is posted, if the notice is properly addressed to the Court and is mailed.

**[(4)]** (d) For a notice of appeal mailed to the Court to be deemed to be received under **[paragraph (3)(B)]** *subsection (c)(2)* on a particular date, the United States Postal Service postmark on the cover in which the notice is posted must be legible. The Court shall determine the legibility of any such postmark and the Court's determination as to legibility shall be final and not subject to review by any other Court.

**[(b)]** The appellant shall also furnish the Secretary with a copy of such notice, but a failure to do so shall not constitute a failure of timely compliance with subsection (a) of this section.

\* \* \* \* \*

## SUBCHAPTER III—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

**§ 7285. [Practice fee] Practice and registration fees**

(a) The Court of Appeals for Veterans Claims may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed \$30 per year. *The Court may also impose registration fees on persons participating in a judicial conference convened pursuant to section 7286 of this title or any other court-sponsored activity.*

(b) Amounts received by the Court under subsection (a) of this section shall be available to the Court **[for the purposes of (1) employing independent counsel to pursue disciplinary matters, and (2) defraying administrative costs for the implementation of the stand-**

ards of proficiency prescribed for practice before the Court] *for the following purposes:*

(1) *Conducting investigations and proceedings, including employing independent counsel, to pursue disciplinary matters.*

(2) *Defraying the expenses of—*

(A) *judicial conferences convened pursuant to section 7286 of this title; and*

(B) *other activities and programs that are designed to support and foster bench and bar communication and relationships or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court.*

\* \* \* \* \*

#### **§ 7287. Administration**

*Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision) applicable to a court of the United States as defined in section 451 of title 28, except to the extent that such provision of law is inconsistent with a provision of this chapter.*

\* \* \* \* \*

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### **SECTION 1001 OF THE VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994**

#### **SEC. 1001. REPORTS ON ACTIVITIES OF THE DEPARTMENT OF VETERANS AFFAIRS TO ASSIST HOMELESS VETERANS.**

(a) ANNUAL REPORT.—(1) \* \* \*

(2) The report shall—

(A) \* \* \*

\* \* \* \* \*

(C) provide any other information on those programs and on the provision of such assistance that the Secretary considers appropriate; [and]

\* \* \* \* \*

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**SECTION 12 OF THE HOMELESS VETERANS  
COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992**

**SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated [to carry out this Act (other than section 8) \$48,000,000 for each of fiscal years 1993 through 1997 and \$50,000,000 for each of fiscal years 2000 and 2001] *to carry out this Act \$50,000,000 for fiscal year 2001*. Nothing in this Act shall be construed to diminish funds for, continuation of, or expansion of existing programs administered by the Secretary of Veterans Affairs to serve veterans.

